

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

STEVE SIMMS, BRUCE IBE, WES LEWIS,
CONSTANCE YOUNG, ROBERT FORTUNE
DEAN HOFFMAN, KEN LAFFIN, DAVID
WANTA, and REBECCA BURGWIN,
individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

vs.

JERRAL “JERRY” WAYNE JONES,
NATIONAL FOOTBALL LEAGUE, DALLAS
COWBOYS FOOTBALL CLUB, LTD., JWJ
CORPORATION, COWBOYS STADIUM,
L.P., COWBOYS STADIUM GP, LLC, and
BLUE & SILVER, INC.,

Defendants.

Civil Action No. 3:11-CV-00248 M

(Consolidated with No. 3:11-CV-00345 M)

**PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION AND FOR EVIDENTIARY
HEARING AND/OR ORAL ARGUMENT THEREON**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Plaintiffs Steve Simms, Bruce Ibe, Wes Lewis, Constance Young, Robert Fortune, Dean Hoffman, Ken Laffin, David Wanta, and Rebecca Burgwin (“Plaintiffs”) on behalf of themselves and all other similarly situated persons (the “Class Members”) pursuant to Rule 23 of the Federal Rules of Civil Procedure and Local Rule 23.2 for an order of certification of this class action. Specifically, Plaintiffs move the Court to certify the following Classes: (1) the Displaced Class, (2) the Relocated/Delayed Class (and all Subclasses therein), and (3) the Obstructed View Class.

As set forth in the accompanying Brief in Support of Motion for Class Certification, Plaintiffs demonstrate that this action satisfies the numerosity, commonality, typicality and representative parties requirements of Fed. R. Civ. P. 23(a). Plaintiffs also demonstrate that, under Fed. R. Civ. P. 23(b)(3), the questions of law or fact common to Class Members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

Also in the accompanying Brief, Plaintiffs specifically demonstrate compliance with each element of Local Rule 23.2.

In addition, Plaintiffs seek an evidentiary hearing, or at the very minimum, oral argument on the merits of this motion. Local Rule 7.1(g) provides that “[u]nless otherwise directed by the presiding judge, oral argument on a motion will not be held.” Plaintiffs respectfully move the Court to hold an evidentiary hearing, oral argument and hearing, or both, on Plaintiffs’ Motion for Class Certification.

Fed. R. Civ. P. 23 does not require that a court conduct an evidentiary hearing on the question of class certification. Nevertheless, the Fifth Circuit has “stated on numerous occasions that the district court should ordinarily conduct an evidentiary hearing on this question.” Merrill v. Southern Methodist Univ., 806 F.2d 600, 608 (5th Cir. 1986) (citing King v. Gulf Oil Co., 581 F.2d 1184, 1186 (5th Cir. 1981)); Shepard v. Beaird-Poulan, Inc., 617 F.2d 87, 89 (5th Cir. 1980).

This Motion is based on the accompanying Brief in Support of Motion for Class Certification and for Evidentiary Hearing Thereon, the Appendix of Evidence in Support of Motion for Class Certification and all affidavits, exhibits, and other evidence attached thereto, and such other evidence or argument as the Court may properly receive.

DATED: December 3, 2012

s/ Christopher S. Ayres

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this filed pleading is being served upon all counsel of record through the Court's ECF delivery system, as provided by the Local Rules at or shortly after the time and date of filing.

DATED: December 3, 2012

s/ Michael J. Avenatti

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